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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,717	02/27/2004	Patricia Melzer	23-0501	9611
40158	7590	01/11/2005	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C.			RINEHART, KENNETH	
3500 SOUTH FIRST AVENUE CIRCLE				
SUITE 250			ART UNIT	PAPER NUMBER
SIOUX FALLS, SD 57105			3749	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/789,717	MELZER, PATRICIA	
	Examiner	Art Unit	
	Kenneth B Rinehart	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,7 and 9 is/are rejected.
- 7) Claim(s) 2-6,8 and 10-12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/27/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 6 is objected to because of the following informalities: Claim 6 refers to liguid. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: Claim 10 refers to spece. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: Claim 10 refers to operatioanlly. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: Claim 10 refers to substantiallu. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: Claim 10 refers to plurlaity. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1, 7, 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hribar in view of Vigliotti. Hribar discloses a vacuum assembly having a housing defining an interior space (10, fig. 1), said vacuum assembly having ... a vent portion (89, fig. 1), and a reservoir member (81, fig. 3), said housing having a spout portion in environmental communication with said reservoir member (104, fig. 2), and a suction nozzle member operationally coupleable to

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said spout portion, said suction nozzle being positionable around a curler to facilitate suction from said motor assembly being directed around the curler (12, fig. 2), an access panel, said access panel facilitating user access to said reservoir member, said reservoir member being removable from said housing to facilitate emptying said reservoir (88, fig. 3), said suction nozzle having an arcuate portion facilitating concentration of suction around a desired curler (12, fig. 1, The apparatus is presently capable of performing this function). Hribar discloses applicant's invention substantially as claimed with the exception of motor, a suction control means facilitating control of an amount of suction applied to said suction nozzle. Vigliotti teaches motor (19, fig.), a suction control means facilitating control of an amount of suction applied to said suction nozzle (19a, fig.) for the purpose of providing a vacuum. It would have been obvious to one of ordinary skill in the art to modify Hribar by including motor, a suction control means facilitating control of an amount of suction applied to said suction nozzle as taught by Vigliotti for the purpose of providing a vacuum so that the apparatus will function.

Allowable Subject Matter

Claims 2-6, 8, 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to driers in general: Demuro et al (3972126), McCurtis et al (6293030).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B Rinehart whose telephone number is 571-272-4881. The examiner can normally be reached on 7:20 -4:20.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kbr


KENNETH RINEHART
PRIMARY EXAMINER